

# KUNKEL TRANSPORTATION SERVICES, INC.

425 13th Street, N.W., Suite 523

Washington, D.C. 20004

13017 (202) 783-3698

RECORDATION NO. 13017 Filed (202) 783-3645

No. 1-086A094

Date MAR 27 1981

Fee \$ 150.00

TRANSPORTATION INFORMATION  
STATUTORY AGENCY SERVICE

CAROLYN H. KUNKEL  
President

MAR 27 1981 -4 00 PM  
INTERSTATE COMMERCE COMMISSION  
RECORDATION NO. 13017 Filed 1425

March 27, 1981

100 Washington, D.C.  
13017

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MAR 27 1981 -4 00 PM

INTERSTATE COMMERCE COMMISSION

13017

RECORDATION NO. 13017 Filed 1425

Mrs. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

MAR 27 1981 -4 00 PM

INTERSTATE COMMERCE COMMISSION

Dear Madam:

Enclosed are the following for recordation with the Interstate Commerce Commission:

Lease Financing Agreement, dated as of January 1, 1981, by and among Valley Bank Leasing, Inc., First Security Bank of Rock Springs, First Security State Bank, State of Wisconsin Investment Board and First Security Bank of Utah, N.A.

Equipment Lease Agreement by and between a trust (created under the Trust Agreement dated as of January 1, 1981 between First Security State Bank and the beneficiaries thereof) and Southern Pacific Transportation Company

Assignment of Lease by and between First Security State Bank as Owner-Trustee, and State of Wisconsin Investment Board

Consent and Agreement, dated January 1, 1981, from Southern Pacific Transportation Company to State of Wisconsin Investment Board.

Check for the recordation fee is attached.

Yours truly,

Carolyn H. Kunkel

RECEIVED  
MAR 27 3 56 PM '81  
FEE DEPARTMENT BR.

— EA Andrews  
C. Davis

BENESCH, FRIEDLANDER, COPLAN & ARONOFF  
ATTORNEYS AT LAW

GEORGE N. ARONOFF	IRVING BERLINER
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ALAN GORIS	EDWARD W. COCHRAN
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ALLAN GOLDNER	GREGORY J. EDGEHOUSE
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RICHARD L. PHILLIPS	LAURENCE P. LUSKA
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JEFFREY L. WEILER	FRED SIEGEL
	GAIL E. SINDELL
MARY BETH BALLARD	RICHARD M. STONE
	RUSSELL B. TURELL

1100 CITIZENS BUILDING  
CLEVELAND, OHIO 44114

AREA CODE 216  
696-1600

CABLE ADDRESS  
"BFCA"

March 30, 1981

MORTON M. STOTTER  
MORTON D. BARRISCH  
COUNSEL

JEROME M. FRIEDLANDER  
OF COUNSEL

ALFRED A. BENESCH  
(1879-1973)

Ms. Mildred Lee  
ICC  
12th Street and Constitution  
Avenue, N.W.  
Room 2303  
Washington, D.C. 20423

Re: 1981 Southern Pacific Lease Transaction

Dear Ms. Lee:

Pursuant to our telephone conversation of today, the following are the parties listed in the documents in connection with the above-referenced transaction:

LEASE FINANCING AGREEMENT

1. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department
2. First Security Bank of Rock Springs - Beneficiary  
79 South Main Street  
Salt Lake City, Utah 84111  
Attention of C. S. Cummings
3. Valley Bank Leasing, Inc. - Beneficiary  
c/o Valley National Bank  
234 North Central - Suite 522  
Phoenix, Arizona 85004  
Attention of Allen E. Wilson
4. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

Ms. Mildred Lee  
March 30, 1981  
Page Two

5. First Security Bank of Utah, N.A. - Agent  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Randy Marchant

EQUIPMENT LEASE AGREEMENT

1. Southern Pacific Transportation Company - Lessee  
One Market Plaza  
San Francisco, California 94111  
Attention of Madeleine Sloane
2. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department

ASSIGNMENT OF LEASE

1. First Security State Bank - Lessor  
79 South Main Street  
Salt Lake City, Utah 84125  
Attention of Corporate Trust Department
2. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

CONSENT AND AGREEMENT

1. Southern Pacific Transportation Company - Lessee  
One Market Plaza  
San Francisco, California 94111  
Attention of Madeleine Sloane
2. State of Wisconsin Investment Board - Lender  
244 West Washington Avenue  
Madison, Wisconsin 53702  
Attention of Mark Ulivich

Please index the documents under the first party listed.  
If you have any further questions, please feel free to contact the undersigned. I am sorry for any inconvenience caused in connection with the filing of these documents.

Very truly yours,



Jill S. Simon  
Legal Assistant

/def

13017/C  
RECORDATION NO. \_\_\_\_\_ FILED 142b  
MAR 27 1981 -4 00 PM  
INTERSTATE COMMERCE COMMISSION

Filed and recorded with the Interstate  
Commerce Commission pursuant to Section  
20c of the Interstate Commerce Act on  
\_\_\_\_\_, 198\_\_ at \_\_\_\_\_ (A.M.) (P.M.)  
Recordation Number \_\_\_\_\_.

### CONSENT AND AGREEMENT

The undersigned, Southern Pacific Transportation Company, a Delaware corporation, the Lessee named in the Equipment Lease Agreement dated as of January 1, 1981 (the "Lease") with First Security State Bank, a Utah banking corporation, not in its individual capacity but solely as owner-trustee under a Trust Agreement dated as of January 1, 1981, as the Lessor, hereby (a) acknowledges receipt of a copy of the Assignment of Lease dated as of January 1, 1981 (the "Assignment") between the Lessor and the State of Wisconsin Investment Board, an independent agency of the State of Wisconsin (the "Lender") and (b) consents to all the terms and conditions of the Assignment.

As an inducement to the Lender to make loans pursuant to the terms of the Lease Financing Agreement referred to in the Assignment, and for other good and valuable consideration, the Lessee agrees that:

(1) it will pay all rentals, stipulated loss value payments, liquidated damages, indemnities and other moneys and proceeds provided for in the Lease, but excluding the payments under Sections 6, 10 and 17 of the Lease and in the absence of any Event of Default under such Lease Financing Agreement, the interim Rent referred to in Annex "A" to the Lease (which moneys and proceeds are hereinafter called the Payments) due and to become due under the Lease in respect of the Units leased thereunder, directly to the Lender at the address and to the account from time to time designated in writing by the Lender to the Lessee; and, if the undersigned fails for any reason whatsoever to pay to the Lender any Payments, it will pay to the Lender, on the respective dates and times set forth in the Lease on which the Payments are specified to be due thereunder, sums equal to the Payments which the undersigned shall not theretofore have paid to the Lender; it being hereby agreed that the undersigned's obligation to pay all the aforesaid Payments or sums equal to the Payments is absolute and unconditional;

(2) the Payments or sums equal to the Payments due hereunder and the performance of its obligations hereunder shall not be subject to any right of setoff or counterclaim or other defense which the undersigned might have against the Lessor otherwise under the Lease or otherwise, and shall be paid and performed irrespective of the genuineness, validity, or enforceability of the Lease or the Assignment or otherwise, and the payment of the Payments or sums equal to the Payments due hereunder to the Lender shall be final and shall not be subject to, and the Lessee hereby agrees to indemnify the Lender against, any liens, charges, security interests or claims of any nature whatsoever resulting from a breach by the Lessee of its obligations under the Lease, prior to or pari passu with the right of the Lender to apply such payments or sums, as provided in the Assignment;

(3) on and after the occurrence of any event of default by Lessee under the Lease and while such event of default is continuing, any rights acquired by the undersigned, by subrogation or otherwise, against the Lessor under the Lease or with respect to any of the Units by reason of any payments made by the undersigned pursuant hereto may not be exercised until the Lender has been paid all sums payable to it under and pursuant to such Lease Financing Agreement;

CERTIFICATE

This is to certify that the attached Consent and Agreement dated as of January 1, 1981 by and between the signatories thereto is a true and correct counterpart copy of such document and pursuant to the terms thereof has appended thereto the counterpart signatures of such parties thereto.


IN WITNESS WHEREOF, I have hereunto set my hand this 27<sup>th</sup> day of March, 1981.



Thomas Ford

STATE OF OHIO           )  
                                  ) SS:  
COUNTY OF CUYAHOGA)

On this 27<sup>th</sup> day of March, 1981 before me personally appeared Thomas Ford, to me personally known, who, being by me duly sworn, says that he is one of the attorneys involved in the transaction described in the accompanying document and the statements made in the foregoing Certificate are true and correct to the best of his knowledge and belief.



Notary Public

ALAN DORIS, Attorney At Law  
Notary Public - State of Ohio  
My commission has no expiration date.  
Section 147.03 R. C.

(4) the Lender shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Lender were named therein as the Lessor and agrees that the Lender shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(5) the Lease shall not, without the prior written consent of the Lender, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(6) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Lease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Lender by signing the acceptance below, shall be deemed to be a contract under the laws of the State of California and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of January 1, 1981

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY

By \_\_\_\_\_

The foregoing Consent and Agreement is hereby accepted as of the first day of January, 1981.

STATE OF WISCONSIN INVESTMENT BOARD

By Kenneth E. Collins

(4) the Lender shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Lender were named therein as the Lessor and agrees that the Lender shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(5) the Lease shall not, without the prior written consent of the Lender, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(6) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Lease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Lender by signing the acceptance below, shall be deemed to be a contract under the laws of the State of California and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of January 1, 1981

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY

By  \_\_\_\_\_

ASST. VICE PRESIDENT - PURCHASING

The foregoing Consent and Agreement is hereby accepted as of the first day of January, 1981.

STATE OF WISCONSIN INVESTMENT BOARD

By \_\_\_\_\_